

UNITED STATES DISTRICT COURT

for the

American Justice Center (AJC) Inc.;  
Asif, Jane Doe and John Doe

*Plaintiff*

v.

Narendra Modi;  
a national of India and ex Chief Minister of Gujarat

*Defendant*

14 CV 7780

Civil Action No.

JUDGE TORRES

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Narendra Modi,  
a national and citizen of India  
Prime Minister and ex Chief Minister of Gujarat

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Babak Pourtavooosi, Esq  
Pannun The Firm, PC  
7520 Astoria Blvd, Suite # 170  
Jackson Heights, NY 11370  
T: 718-672-8000 F: 718-672-4729  
Cell 718-938-7801

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

RUBY J. KRAJICK

CLERK OF COURT

Date: SEP 25 2014



*Signature of Clerk or Deputy Clerk*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JUDGE TORRES

"AMERICAN JUSTICE CENTER" (AJC), Inc.;

Asif;

"JANE DOE" a female individual<sup>1</sup>

and

"JOHN DOEs" for themselves and  
their injured and deceased relatives,  
left presently unnamed,

**Plaintiffs,**

v.

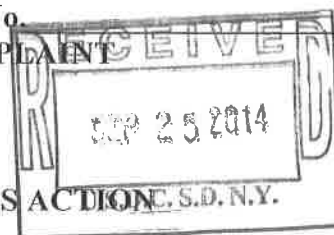
NARENDRA MODI,  
a national and citizen of India;  
Prime Minister of India and  
Former Chief Minister of the State of Gujarat

**Defendant.**

14 CV 7780

Civ. No.

COMPLAINT



CLASS ACTION S.D.N.Y.

JURY TRIAL DEMANDED

Plaintiffs, by and through their attorneys, allege the following:

**I. PRELIMINARY STATEMENT**

1. It has been widely reported and noted that there have been extremely violent, unprovoked, and inherently barbaric attacks and causes of death against the Muslim population in India. These are commonly misnomered as "communal riots" but in reality they were nothing short of attempted genocide against a population persecuted for their religious beliefs. There were many incidents of struggle and disaster for the Muslim

<sup>1</sup> The Plaintiff Jane Doe is a female individual residing in the United States who has requested to withhold her name at this stage of the proceedings owing to her well founded fear of retaliation from the state and non-state actors in India. Acting under the pseudonym "Jane Doe", the Plaintiff has given a sworn affidavit in support thereof, which on file with the undersigned attorney and can be presented to the Honorable Court, if asked, for in camera review.

people of India, specifically the Plaintiffs but the most profound by far was that which occurred in 2002. This event will forever be known as the 2002 Gujarat Genocide, a three-day period of communal violence in the state of Gujarat in western India. This led to outbreaks of anti-Muslim violence in other parts of the country lasting for several weeks resulting in mass killings of people of the minority Muslim population. It is known and believed by those who witnessed the travesty including the pseudonym-named Plaintiffs, that the violence began with the accidental burning of a train at Godhra on February 27, 2002. That accidental fire at Godhra was used to unleash, plan and organize vast anti-Muslim violence throughout the state of Gujarat. The investigations by human rights organizations and various investigating agencies revealed that that as a result of the Gujarat massacre of 2002, the death toll of members of the Muslim community exceeded two thousand in Gujarat alone. On top of that, some 20,000 Muslim homes and businesses and 360 places of worship were destroyed, and over 150,000 Muslims were displaced. (See New York Times report of April 16, 2014 "Timeline of Riots in Modi's Gujarat" [http://www.nytimes.com/interactive/2014/04/06/world/asia/modi-gujarat-riots-timeline.html?\\_r=0&#time287\\_8514](http://www.nytimes.com/interactive/2014/04/06/world/asia/modi-gujarat-riots-timeline.html?_r=0&#time287_8514)). Reports showed occurrences of rape, live burnings of adults and children, destruction of private property, theft, torture, and homicide.

2. The cause of such a massacre is well known as through the actions and inactions of the then Chief Minister of Gujarat Narendra Modi, the Defendant herein, whose anti-Muslim sentiment, nefarious conduct, and outspoken doctrine of maintaining Hinduism as the dominant religion actually initiated and condoned the mass killing and violence that was perpetrated towards the Muslim community. The police and government agents under his authority were used as tools in the renegade endeavor of Minister Modi to persecute the

Muslim people. There is evidence to support the conclusion that Minister Modi committed both acts of intentional and malicious direction to authorities in India to kill and maim innocent persons of the Muslim faith but also acted negligently in failing to consider the rights and principles of all the people of India, not just those who worship the mainstream religion. There is evidence that Modi, acting through his inner circle, actually pin-pointed Muslim-owned businesses and homes as targets of attack during the 2002 spree of violence.

3. Under Defendant's leadership, specifically during the time period of February 28, 2002 to March 2, 2002, there were a large number of Muslims killed in the Gujarat massacre. Thousands were killed and thousands more displaced. The state of Gujarat was known to be completely complicit in these events and Defendant specifically as the state's Chief Executive Officer possessed complete command over the local law enforcement authorities. Defendant was therefore liable for the intentional and grossly and willfully negligent actions of those under his watch and command, including providing leadership and material and necessary support, security, relief, resettlement and rehabilitation measures to the victims in the politically- and bias-motivated attacks on the Muslim minorities in Gujarat, India.
4. It is known that Defendant was a member functionary of the Rashtriya Swayamsevak Sangh (RSS), a Hindu nationalist party motivated in part by Nazi and fascist ideologies. Defendant incorporated such ideals in his running of the government of India. Defendant and the Indian government also spread anti-religious bias and violence in Gujarat against other religions such as Christianity.<sup>2</sup>

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<sup>2</sup> Testimony of Attorney Tehmina Arora before the Committee on Foreign Affairs, U.S. House of Representatives

5. Hundreds of Complaints and Lawsuits with the Courts of India have gone without redress and have been unsuccessful at seeking justice for the victims.
6. Consequently, the Defendant and the Indian government are responsible for the deaths of thousands of people, organized violence, large-scale displacement of members of the Muslim minority population, and the continuing denial of justice resulting in a climate of terror in Gujarat and elsewhere in India, lasting for years since the massacre subsided.
7. The government of India has classified what qualifies as this attempted genocide<sup>3</sup> as a "communal riot"<sup>4</sup> and a tainted Special Investigative Team (SIT) has submitted a report that is both questionable and lacking in credibility to the Supreme Court of India recommending that Modi be cleared from complicity in the 2002 Gujarat genocidal violence. However, there are serious doubts as to the veracity and impartiality of these investigative reports based on actual eyewitness accounts collected by the Human Rights NGOs and by those eyewitnesses brave enough to come forward and file the instant lawsuit seeking justice and redress, specifically the named and pseudonym-named Plaintiff's herein. The combined testimony of these eyewitnesses and the allegations of the plaintiffs directly contradict the official report of the government of India and clearly retells the horrors that occurred in that year surrounding the ethnic cleansing of the 2002 Gujarat genocidal violence.

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<sup>3</sup> "[G]enocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group." [See (Article 2 of the UN Convention on the Prevention and Punishment of Genocide; 18 U.S.C. § 1091(a)(c)(d)]

<sup>4</sup> By the very definition, the word "communal riots" denotes fight between two or more communities resulting in equal or proportionate loss of life and property to all the communities involved. Unlike any riots, in 2002 the Gujarat violence targeted only Muslims. Besides the incidental killing of Hindus in the accidental train fire, there were hardly any Hindus killed or injured. During the so-called "Riots", the victims were almost entirely members of the Muslim community.

8. Some of the other events that happened as part of the 2002 Gujarat Massacre were the carnage at Narodia Patiya and the Gulberg Society massacre, amongst many others.
9. It is clear that justice for the Plaintiffs cannot be had in India because of the condoning of this genocidal act of state-sanctioned terrorism against the Muslim people.<sup>5</sup>
10. The Plaintiffs are those who were injured and had immediate family members who were injured or killed as a result of the onslaught that resulted from this unspeakable cruelty.
11. This is a civil action for compensatory and punitive damages against Defendant Modi for violations of state, federal, and international law committed against the Muslim people in India, specifically Plaintiffs and their respective families.
12. Plaintiff class leaders will testify and produce sworn statements to be filed under seal for the security and safety of both themselves and their other family members still residing in India and subject to the pressures of the local law enforcement controlled and commanded by the Defendant. These sworn statements would be made available for "in-camera" inspection by this honorable Court. These sworn statements would show the horrors that these Plaintiffs have suffered and that their deceased loved ones have suffered at the hands of the state government run and controlled by the Defendant. They will show how the Plaintiffs and their families directly and substantially suffered bodily, property, psychological, emotional and mental injuries during February-March 2002 as a result of the violence that was ordered, aided, abetted, directed, facilitated and connived by the Defendant who was the Chief Minister of the State of Gujarat at that time.

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<sup>5</sup> As a mechanism for raising awareness and the pursuit of justice for the victims against the remarkable wrongs committed against the Muslim people of India as alleged herein, a human rights advocacy group "Sikhs for Justice" has convened a "Citizens' Court" in Washington DC to hold an indictment proceeding against Narendra Modi to assist the American public in understanding the nature of the genocidal attacks on religious minorities in India and the horrors that plague the surviving victims till this day. There is no official authority or standing to the Citizens' Court but it stands as a voice for the voiceless.

## II. PARTIES

### A. Plaintiffs

13. The Plaintiff "American Justice Center" (AJC) is a non-profit organization registered with the State of New York with the objective of seeking justice for human rights violations committed against the religious minorities of India by pursuing legal actions against perpetrators found or present in the United States and by running advocacy and public awareness campaign.

14. Individual plaintiff "Jane Doe" is a Muslim female hailing from the State of Gujarat.

Plaintiff Jane Doe's family was living in a village near the city of Anand in Gujarat during February-March 2002. The plaintiffs' family home was attacked by the workers of BJP (the party defendant heads) and RSS (the party that defendant has been associated with for many decades). The plaintiff's mother was severely beaten by the attackers that she succumbed to the injuries in 2003. The plaintiff's brother also sustained serious injuries but miraculously survived. The plaintiff's family home was burnt to ashes. According to eyewitnesses, the attack was led by local BJP and RSS leaders who also delivered speeches before the attack openly boasting that they have been given "free hand by Modi", the defendant. As a result of the actions of the defendant, the plaintiff's mother was murdered. As an additional result of the actions of defendant Modi, Plaintiff herself suffered severe mental torture during these atrocities.

15. Individual plaintiff Asif is a citizen of India, born and raised in Gujarat. In 2002, Asif was living in the city of Anand in Gujarat. His grandmother was murdered by the attackers who were BJP and RSS workers and were acting by virtue of the "free hand" given by defendant Modi. On March 03, 2002, plaintiff Asif received a phone call from

local police asking him to go and check up on his grandmother's house in the nearby village. When Asif went to the village, it turned out to be a trap as an armed contingent of BJP-RSS workers was waiting there for Asif and they beat him severely and left him to die. Later when plaintiff was working as volunteer in the relief camps set up by NGOs for the victims of Muslim massacre, Asif was tortured, beaten, hounded, intimidated, threatened by the workers of BJP and RSS. Upon approaching the authorities for help, Asif was turned away by officials stating that there are orders "from the Chief Minister Narendra Modi not to save or help any Muslims". As a result of the actions of the defendant, the plaintiff Asif suffered physical torture and severe mental torture.

16. The individual Plaintiffs come from the part of India directly affected by the genocidal attacks of 2002. Their families were killed, maimed, or brutally injured. They file this action against the perpetrator of these wrongs under anonymity for the time being. They bring this action on their own behalf and that of their families who were killed or injured in the 2002 Gujarat riots.
17. The class consists of the members of Gujarati Muslim Community who are survivors of those killed during the 2002 genocide of Muslims in Gujarat who witnesses or directly suffered the genocidal attacks, torture, loss of property and severe mental torture during the 2002 Gujarat genocidal attacks.

**B. Defendant:**

18. Defendant Modi served as the Chief Minister of the state of Gujarat from 2001 to 2014. In 2002 when the massacre was perpetrated, the defendant was in full command and control of the state of Gujarat. He is currently the Prime Minister of India. He presided over, initiated, and condoned the horrors of the acts mentioned above and that form the



factual basis of this complaint. The defendant will be physically present in the United States from September 26 till September 30 and will be present in New York, from 26 to 29th of September.

19. Defendant is also a member and the leader of Bhartiya Janata Party (BJP) and member of Rashtriya Swayamsevak Sangh (RSS), as well as maintains association with Vishva Hindu Parishad (VHP) and Bajrang Dal (BD), supremacist groups and organizations in India.
20. In 2005, the United States officially recognized and acknowledged the defendant's complicity in the Gujarat massacre of 2002 by revoking the defendant's visa and putting a ban on his entry into the United States under the provision of International Freedom Act of 1998.
21. The allegations herein maintain that in these capacities, Defendant committed acts and omissions in violations of the law of nations and of the laws of the United States of America.

### **C. Class Allegations**

22. The class consists of all men, women, and children who are the surviving victims of the horrendous genocidal massacre that occurred during the 2002 Gujarat riots commencing on or about February 27, 2002 who suffered both physical and mental injuries caused by Defendant.
23. The exact number of class members is not known, but it is estimated that the class includes approximately 300 victims of the massacre. The class is so numerous that joinder of individual Plaintiffs is impracticable.

24. There are common questions of law and fact in this action that affect and relate to each member of the class, including:

- a. Whether Defendant authorized, condoned, commanded, or directed the unlawful acts of the authorities and forces under his control;
- b. Whether Defendant aided and abetted or conspired with other forces;
- c. Whether Defendant knew or should have known that forces under his command were: deliberately and wantonly killing, attacking, burning, raping, torturing, and maiming residents of the states of western India and targeting Muslim people; failing to distinguish between combatants and protected civilians prior to the premeditated and targeted attacks, failing to take all feasible precautions in the choice of means and methods of attack, with a view to avoiding or minimizing loss of civilian life and injury to civilians and innocent children; undertaking discriminatory and bias-motivated attacks; using lethal means to carry out those attacks; treating civilians and residents inhumanely; and undertaking acts of violence the primary purpose of which was to spread terror among the civilian population.
- d. Whether Defendant failed to punish or ratified such unlawful acts by forces and authorities under his command;
- e. Whether Defendant failed to take adequate and appropriate measures to prevent subordinates under his command from committing violations of the laws of war; and
- f. Whether Defendant's actions give rise to liability under applicable international and domestic laws.

25. This action is properly maintained as a class action because a) Defendant has acted and failed to act in a way generally applicable to the class, making any declaratory relief awarded appropriate to the class as a whole, and b) questions of law and fact common to the class predominate over questions affecting individual members and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

### **III. JURISDICTION AND VENUE**

26. Defendant is liable for extrajudicial killing, torture of individuals under actual and apparent authority and under color of law through the ordering and direction of his forces and authorities to target Muslim people, and attempted genocide of the Muslim population of India as defined by the customary international law, the Vienna Convention, and the Torture Victim Protections Act (“TVPA”), Pub. L. No. 102-256, 106 Stat. 73 (1992).
27. Defendant is further liable for violations of customary international law and treaty law prohibiting the commission of human rights violations and war crimes. Accordingly, this Court has jurisdiction over this action based on 28 U.S.C. Section 1350 (Alien Tort Statute) and 28 U.S.C. Section 1331. The Court has jurisdiction over the state law claims pursuant to 28 U.S.C. Section 1367.
28. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. Sections 1391(b) (3). This Court has personal jurisdiction over Defendant.
29. The equitable tolling doctrine applies to the ten-year statute of limitations for claims brought under the TVPA. Both Plaintiffs and Defendant were not within the jurisdiction of the United States of America until recently in or about 2014.

#### **IV. STATEMENT OF FACTS**

##### **A. Background**

30. Since 2002, the Gujarat carnage continued seeming endlessly and the massacre would continue under the violence that began with a fire on a train in the Indian state of Godhra. Systematic violence followed for months, directed against the Muslim people of the state of Gujarat as targeted and desired by Defendant.

##### **B. 2002 Gujarat Riots**

31. The 2002 Gujarat massacre of Muslims is reported, thoroughly documented, and well known by the surviving victims and their families and the general public and international community as a period of extreme communal violence in Gujarat during February to March 2002. With a death toll of over two thousand and two-thousand-five-hundred more injured and hundreds missing, the members of the Muslim community began to fear the state government of Gujarat. The government's involvement in the violence strikes fear into the hearts of many till this very day. The Defendant used forces, authorities, and agencies at his disposal within the government to commit generally brutal and sadistic acts, including rape and horrific violence. The majority of the victims of this violence were Muslim. The government officials led at the time by Defendant took part in the violence.

32. Beginning with a fire on a train at Godhra killing fifty-nine peaceful pilgrims and activists, the violence ensued to rampant lawlessness, violence, and inhumane actions. The local newspapers reported the systematic violence as directed mainly against the Muslim community in Gujarat.

33. "Modi imposed his official version of the event that very evening, stating that it was a "pre-planned violent act of terrorism." In addition, Modi called together police officials at his home and gave them orders not to put down the Hindus who would inevitably react to the Godhra attack: the "Hindu backlash" was not only foreseeable, it was legitimate. And that very evening, on the government's orders, the bodies were taken to Ahmedabad for a post-mortem and public ceremony. The arrival of the bodies at the Ahmedabad station was broadcast on television; causing considerable agitation among the Hindus, all the more so since the exhibited bodies were covered with a sheet. The following day, the VHP organized the shutdown of the city (bandh) with the support of the BJP. This mobilization established the conditions for a Hindu offensive in Ahmedabad. "<sup>6</sup>
34. In one of the happenings of 2002 massacre in Gujarat, Mr. Ehsan Jafri, a respected, elderly former Member of the Parliament of India who was living in the Gulbarg Society in the city of Ahmedabad, was burnt to death along with more than sixty (60) other Muslims by the gangs of BJP and RSS workers. According to the recorded version of his elderly wife Zakia, on February 28, 2002, a mob of BJP-RSS fanatics blew up the security wall of the housing society using gas cylinders, dragged Jafri out of his house, stripped him, chopped off his limbs with swords, etc. and burnt him alive.
35. Defendant was quoted as saying in an interview given at the time, "this is a chain of actions and reactions. We want both action and reaction to stop". Subsequent investigation found incredible human rights violations at the core of this statement in that the violent attacks were "planned in advance and organized with extensive participation

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<sup>6</sup> Christophe Jaffrelot, "Communal Riots in Gujarat: The State at Risk?" Heidelberg Papers In South Asian And Comparative Politics <http://www.sai.uni-heidelberg.de/abt/SAPOL/HPSACP.htm> Working Paper No. 17, July 2003

of the police and state government officials", directly contradicting the Defendant's claim of "action and reaction".<sup>7</sup>

36. Testimony from perpetrators of the violence as well as victims provided intricate detail as to the accounts surrounding the 2002 Gujarat Massacre and regarding communications between top Sangh Parivar leaders and top police and administrative officials and ministers of the Modi regime while the killing took place.

### **C. Defendant's participation**

37. At the time of 2002 Gujarat Massacre of Muslims, in which the named and unnamed individual plaintiffs and their families were subjected to physical and mental torture, the defendant was the Chief Minister of the state of Gujarat and as the Chief Executive Officer of the state commanded and controlled local law enforcement throughout the state. During this time, Defendant was complicit in the attacks, injuries, and brutal deaths of thousands of minority Muslim men, women, and children in the state of Gujarat.
38. Defendant is a self-proclaimed Hindu nationalist and leader of the Bharatiya Janata Party (BJP) of India. Defendant is also connected to the bigoted Sangh Parivar, a Hindu nationalist coalition of organizations responsible for the massacre and violence surrounding the 2002 Gujarat Genocide and attacks on other religious minorities throughout India. Defendant's official account was to end the violence of the ensuing riots; however, there is evidence to support the proposition that local authorities, forces, and officials were summoned by Defendant to target the Muslim population. One noted report concerned about "a free hand for three days" in which local authorities, forces, and officials were effectively given a carte blanche to attack, torture, maim, kill, and focus in any way they sought fit against the Muslim population. An aide of Defendant and fellow

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<sup>7</sup> [https://narendramodifacts.com/faq\\_2002.html](https://narendramodifacts.com/faq_2002.html).

politician, Maya Kodnani, was convicted with Sangh Parivar members of an orchestrated killing of almost one hundred people in the Naroda Pativa massacre, one of the massacres that took place as part of the Gujarat Genocide. Though Kodnani's actions in this massacre were well known, Kodnani was appointed by Defendant as a minister in his government.

39. Also, former Home Minister of the state of Gujarat Haren Pandya was killed in his home town of Ahmedabad in March 26, 2003 shortly after his forced resignation from government following live testimony in a citizen's tribunal on the evening of February 27, 2002 where he spoke of Defendant's advising officials "not to come in the way of what will occur [to Muslims] in the next few days."<sup>8</sup>

#### **D. Inadequacy of local remedies**

40. The victims of the massacre will not receive justice in India as a tainted Special Investigative Team (SIT) has submitted a report that is both questionable and lacking in credibility, to the Supreme Court of India recommending that Modi be cleared from the allegations of complicity in the 2002 Gujarat genocidal violence and thus attempts to bring the defendant have been futile.
41. Further efforts to attempt justice for the victims of the massacre in their native country will be relentlessly futile and pointless.
42. A major reason why perpetrators of violence against religious minorities enjoy impunity from prosecution is due to the logjam in the Indian judicial system. According to the statement made by Prime Minister Manmohan Singh to the Indian Parliament, India has the largest backlog of cases in the world. There are 30 million cases pending in Indian

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<sup>8</sup> "Modi told officials "not to act"" in the Tribune, August 09, 2002, URL (consulted February 2005) <http://www.tribuneindia.com/2002/20020810/main1.htm>

courts, 4 million of which are pending in high courts and 65,000 in the Supreme Court itself. It takes an average of 10 years to adjudicate a case in a court. Once a verdict is given in the lower court, the appeal process to the Supreme Court can take several decades. This makes any remedies to human rights violations such as judicial redress impractical<sup>9</sup>. After 30 years, cases against perpetrators of the 1984 mass killings of Sikhs in New Delhi are still getting adjudicated<sup>10</sup>

43. According to Pew Research Center's annual reports on "Global Restrictions on Religion", India has been listed consistently for the last 5 years as the country with the 2nd highest score of social hostilities against religious minorities across the world. During the last survey by Pew Research, India scored a staggering 9.6 on a scale of 10 in terms of social hostilities against religious communities. While categorizing India as very high on social hostilities, the report has also marked India as 'high' on government restrictions in the free practice of religion.<sup>11</sup>

44. From the above, it becomes clear that there can be no justice in a country where the government covers up the acts and omissions of a man responsible for the deaths and injuries of thousands persecuted solely because of their religious beliefs. There is no remedy in India. Jurisdiction is proper in this forum and this court must allow for this case to proceed accordingly.

## V. CLAIMS FOR RELIEF

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<sup>9</sup> "INDIA: Remedies to human rights violations a mirage" ALRC-CWS-25-14-2014, February 27, 2014. A written submission to the UN Human Rights Council by the Asian Legal Resource Centre

<sup>10</sup> "1984 Anti-Sikh Riots Case: Trial Commences Against Sajjan Kumar" Indian Express, January 10, 2014.

<sup>11</sup> Pew Research Center Annual Report, January 2014: "Religious Hostilities Reach Six-Year High" <http://www.pewforum.org/2014/01/14/religious-hostilities-reach-six-year-high/>



45. Plaintiffs' causes of action arise under and violate both domestic law and international law as defined in agreements, declarations, conventions, resolutions, and treaties, including but not limited to the following:
- a. Customary international law and treaties of the United States;
  - b. Statutes and common law of the United States;
  - c. Statutes and common law of New York;
  - d. Any other applicable laws, domestic, foreign or international.
46. The claims herein under the law of nations are based on norms that are definable, obligatory, and universally recognized.
47. The law of nations prohibits the targeting of civilians and the blatant discrimination based on targeting members of a specific religious group.
48. The law of nations prohibits acts or threats of violence against a specific group of people targeted because of their religious beliefs.
49. Based on the foregoing, Defendant is guilty of Crimes against Humanity, Cruel, Inhuman, or Degrading Treatment or Punishment, Extrajudicial Killing, Wrongful Death, Negligence, Public Nuisance, Battery, and Intentional and Negligent Infliction of emotional Distress.
50. The testimony of Plaintiffs and other witnesses will show that during the Gujarat massacre in India in February and March of 2002, there were actions by the government of India at the behest of Defendant to commit crimes against humanity, targeting the minority Muslim community in the state of Gujarat in India, TO WIT: killing of members of the Muslim community through massacre, causing serious bodily or mental harm to members of the Muslim community through massacre, rape, burning, stabbing, beating,

deliberately inflicting pain and group conditions of life calculated to bring about its physical destruction in whole or in part through massacre, economic boycott, psychic, physical, and social trauma, and imposing measures intended to prevent births within the group through rape, trauma, destruction of family, sexual violence, and mutilation.

51. Plaintiff Jane Doe requested that her identity be withheld at this stage of the proceeding, fearing retaliation and harm to her family members living in India at the hands of defendant Modi and his agents. Plaintiff Jane Doe has used the pseudonym "Jane Doe" for the purposes of safety, security, and the prevention of retaliation by Defendant or the forces under his control who would subject the Plaintiff or her family members in India to death, great bodily and mental harm, or other forms of cruelty should even the slightest form or incident of their identities become known during the initial course of these proceedings. Plaintiff has provided a sworn statement as to the facts alleged in this complaint and it can be presented for this honorable Court's in-camera review.
52. The United States Courts, specifically the Second Circuit, have held that in recognizing the right to a public trial of the Defendant, such considerations "must be balanced against other interests that might justify closing the courtroom to the public, including preservation of order, protection of parties or witnesses, or maintenance of the confidentiality of certain information."<sup>12</sup>

### **General Allegations**

53. The acts described in the Complaint were undertaken under color of law.
54. The acts and injuries to Plaintiffs and their deceased and injured relatives described herein, as well as those similarly situated, were part of a pattern and practice of

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<sup>12</sup> See *United States v. Lloyd*, 520 F.2d 1272, 1274 (2d Cir. 1975).

systematic human rights violations designed, ordered, implemented, and directed with the participation of Defendant and carried out by local law enforcement and military authorities and personnel acting at his direction, and/or with his encouragement and acquiescence.

55. Plaintiffs and their decedents are members of the Muslim faith from the State of Gujarat in Western India.

**FIRST CLAIM FOR RELIEF  
(Crimes against Humanity)**

56. Plaintiffs re-allege and incorporate by reference all the allegations set forth in the preceding paragraphs of this Complaint as if fully set forth herein.
57. The abuses committed against Plaintiffs and their deceased loved ones constitute crimes against humanity. Defendant knew or should have known that the direction given to the local law enforcement and military personnel under his command and direction would have resulted in the death and torture of thousands, specifically the direct targeting of members of the Muslim religion in India.
58. As a result, Defendant is responsible for the murder of Plaintiff's deceased relatives and these murders were knowingly committed as part of a widespread or systemic attack against a specific population of the Muslim religion in India.
59. Defendant, by virtue of his inhuman acts and omissions, also caused great suffering and/or serious injury to body or to mental or physical health in the context of a widespread or systemic attack against a specific population of the Muslim religion in India.
60. Defendant's acts and omissions constitute "tort[s]... committed in violation of the law of nations or a treaty of the United States" under 28 U.S.C. Section 1350 and also violate 28

U.S.C. Section 1331 in that the acts and omissions against Plaintiffs violated customary international law prohibiting war crimes as reflected, expressed, and defined in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.

61. The acts and omissions constituting crimes against humanity caused Plaintiffs to suffer damages, including physical and mental pain and suffering, in amounts to be determined by a jury at trial.
62. Defendant's acts and omissions were deliberate, willful, wanton, malicious, intentional, and/or oppressive, and should be punished by an award of punitive damages in an amount to be determined by a jury at trial.

**SECOND CLAIM FOR RELIEF  
(Cruel, Inhuman, or Degrading Treatment or Punishment)**

63. Plaintiffs re-allege and incorporate by reference all the allegations set forth in the preceding paragraphs of this Complaint as if fully set forth herein.
64. The abuses committed against Plaintiffs and Decedents described herein each constitute cruel, inhuman, or degrading treatment or punishment.
65. These acts include, as alleged in this Complaint also constitute torts committed in violation of the law of nations, and thus of the United States, as reflected in federal common law, which incorporates extrajudicial killing, pursuant to 28 U.S.C. Sections 1331 and 1350.
66. Defendant's conduct constitutes a violation of the law of nations and customary international law prohibiting torture, cruel, inhuman, or degrading treatment or punishment as reflected, expressed, and defined in multilateral treaties and other international instruments, international and domestic judicial decisions and other

authorities. Extrajudicial killing is similarly reflected, expressed, defined, and codified in multilateral treaties and other international instruments, international and domestic judicial decisions and other authorities. Therefore, such acts and omissions are actionable.

67. The acts and omissions constituting cruel, inhuman, or degrading treatment or punishment caused Plaintiffs to suffer damages, including physical and mental pain and suffering, in amounts to be determined by a jury at trial.
68. Defendant's acts and omissions were deliberate, willful, wanton, malicious, intentional, and/or oppressive, and should be punished by an award of punitive damages in an amount to be determined by a jury at trial.

### **THIRD CLAIM FOR RELIEF (Extrajudicial Killing)**

69. Plaintiffs re-allege and incorporate by reference all the allegations set forth in the preceding paragraphs of this Complaint as if fully set forth herein.
70. With regard to the events alleged herein, Defendant's acted under the actual and/or apparent authority and/or color of law of the State of India.
71. The killings of Plaintiffs' decedents were deliberate and not authorized by a previous judgment pronounced by a regularly constituted court affording all the judicial guarantees that are recognized as indispensable by civilized peoples. The killings were not lawfully carried out under the authority of any country or court.
72. The killings of Plaintiffs' decedents constitute extrajudicial killings under the Torture Victim Protection Act, Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at 28 U.S.C. Section 1350). Additionally, the killings constitute torts committed in violation of the law

of nations, and thus of the United States, as reflected in federal common law, which incorporates extrajudicial killing, pursuant to 28 U.S.C. Sections 1331 and 1350.

73. Defendant's conduct constitutes violations of the law of nations and customary international law prohibiting extrajudicial killing, reflected, expressed, and defined in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.
74. Defendant knew or should have known his acts and/or omissions would have resulted in the thousands of deaths by the hands of the military and police at his command and direction.
75. Upon information and belief, no adequate remedy exists at law under the laws of India, which is the place where the conduct giving rise to this action and these claims occurred, nor is any adequate remedy available through the courts of India.
76. The acts and omissions constituting extrajudicial killings caused Plaintiffs to suffer damages, including physical and mental pain and suffering, in amounts to be determined by a jury at trial.
77. Defendant's acts and omissions were deliberate, willful, wanton, malicious, intentional, and/or oppressive, and should be punished by an award of punitive damages in an amount to be determined by a jury at trial.

#### **FOURTH CLAIM FOR RELIEF (Wrongful Death)**

78. Plaintiffs re-allege and incorporate by reference all the allegations set forth in the preceding paragraphs of this Complaint as if fully set forth herein.
79. Defendants owed a duty to Plaintiffs' decedents to refrain from intentionally and wantonly harmful or outrageous conduct. Defendant owed a duty to Plaintiffs' decedents

to not target religious minorities in the state of Gujarat and other surrounding territories. Defendant also owed a duty to Plaintiffs' decedents under customary international law, including but not limited to the Geneva Conventions, which imposes duties upon an occupying power and its officials with regard to protected populations.

80. Defendant breached that duty by authorizing the targeting of members of the Muslim religion in western India and authorizing the use of excessive force, violence, and depravity against said population by members of the military and police forces under his command and direction. Defendant knew or should have known that innocent people would be killed or wounded.
81. As a direct and proximate cause of Defendant's actions and omissions constituting breach of that duty, Plaintiffs' decedents were killed and Plaintiffs suffered injury. It was reasonably foreseeable that such deaths and injuries would occur.
82. Plaintiffs are representatives of their deceased relatives and loved ones and bring this suit on behalf as their next of kin.
83. The acts and omissions constituting wrongful death caused Plaintiffs to suffer damages, including physical and mental pain and suffering, in amounts to be determined by a jury at trial.
84. Defendant's acts and omissions were deliberate, willful, wanton, malicious, intentional, and/or oppressive, and should be punished by an award of punitive damages in an amount to be determined by a jury at trial.

**FIFTH CLAIM FOR RELIEF  
(Negligence)**

85. Plaintiffs re-allege and incorporate by reference all the allegations set forth in the preceding paragraphs of this Complaint as if fully set forth herein.

86. Defendant owed a duty to Plaintiffs and their decedents to prevent the deliberate, willful, wanton, malicious, intentional, and/or oppressive torture, killings, and assaults on the Muslim people of Western India. Further Defendant owed a duty to Plaintiffs and their decedents to refrain from intentional and wantonly harmful outrageous conduct.
87. Defendant breached that duty by authorizing the military and police forces under his command and direction to engage in the deliberate, willful, wanton, malicious, intentional, and/or oppressive torture, killings, and assaults on the Muslim people of Western India.
88. As a direct and proximate cause of Defendant's acts and omissions constituting breach of that duty, Plaintiffs and their decedents were harmed. It was reasonably foreseeable that such breach would result in this harm.
89. Beyond mere negligence, Defendant's acts were intentional, deliberate, willful, wanton, malicious, and/or oppressive torture, killings, and assaults on the Muslim people of Western India and should be punished by an award of punitive damages in addition to compensatory damages, in respective amounts to be determined by a jury at trial.

**SIXTH CLAIM FOR RELIEF  
(Public Nuisance)**

90. Plaintiffs re-allege and incorporate by reference all the allegations set forth in the preceding paragraphs of this Complaint as if fully set forth herein.
91. Plaintiff's, as members of the public, had a right to health, public peace, public comfort, and/or public convenience.
92. Defendant deliberately and unreasonably interfered with the aforementioned rights by authorizing, commanding, and directing the attack of intentional, deliberate, willful, wanton, malicious, and/or oppressive torture, killings, and assaults by the police and



military forces under his command and direction specifically targeted against the Muslim people of Western India.

93. The attacks arranged and directed as well as encouraged, condoned, and acquiesced in by Defendant caused substantial property damage to the neighborhood and disturbed the peace. Such attacks endangered the comfort, repose, health and/or safety of Plaintiffs, their decedents, and thereby constitute a public nuisance.
94. The public nuisance created by Defendant directly caused special injuries and damages to Plaintiffs and their decedents, unique from those suffered by the general public. Said public nuisance interfered with, obstructed, and or injured the individual rights of Plaintiffs and their decedents.
95. Defendant's acts and omissions were intentional, deliberate, willful, wanton, malicious, and/or oppressive torture, killings, and assaults on the Muslim people of Western India.
96. Defendant's acts were intentional, deliberate, willful, wanton, malicious, and/or oppressive torture, killings, and assaults on the Muslim people of Western India, constituting a public nuisance, and should be punished by an award of punitive damages in addition to compensatory damages, in respective amounts to be determined by a jury at trial.

**SEVENTH CLAIM FOR RELIEF  
(Battery)**

97. Plaintiffs re-allege and incorporate by reference all the allegations set forth in the preceding paragraphs of this Complaint as if fully set forth herein.
98. Defendant by engaging in the intentional, deliberate, willful, wanton, malicious, and/or oppressive torture, killings, and assaults on the Muslim people of Western India also

brought about harmful and/or offensive contact with the persons and bodies of Plaintiffs and their decedents.

99. Defendant intended to bring about this contact.

100. As a direct and proximate cause of Defendant's conduct, Plaintiffs and their decedents were harmed and such harm was the reasonably foreseeable consequence of the contact.

101. Defendant's acts and omissions caused Plaintiffs and their decedents to suffer damages, severe physical and mental pain and suffering, in amounts to be determined by a jury at trial.

102. Defendant's acts were intentional, deliberate, willful, wanton, malicious, and/or oppressive torture, killings, and assaults on the Muslim people of Western India, constituting battery, and should be punished by an award of punitive damages in addition to compensatory damages, in respective amounts to be determined by a jury at trial.

**EIGHTH CLAIM FOR RELIEF**  
**(Intentional Infliction of Emotional Distress)**

103. Plaintiffs re-allege and incorporate by reference all the allegations set forth in the preceding paragraphs of this Complaint as if fully set forth herein.

104. Defendant's authorization, command over, and direction of the intentional, deliberate, willful, wanton, malicious, and/or oppressive torture, killings, and assaults on the Muslim people of Western India, which Defendant knew or should have known would cause the deaths, injury, and suffering of many innocent civilians, amounts to extreme and outrageous conduct that transcends all possible bounds of decedent and is utterly intolerable in a civilized society.

105. Defendant intended to cause Plaintiffs and their decedents to suffer humiliation, mental anguish, and extreme emotional distress, or in the alternative Defendant recklessly disregard a substantial probability of causing humiliation, mental anguish, and severe emotional distress to Plaintiffs and their decedents with this conduct.
106. As a direct and proximate cause of Defendant's outrageous conduct, Plaintiffs and their decedents suffered severe emotional distress and mental suffering. It was foreseeable that such attacks would cause this suffering.
107. Defendant's acts were intentional, deliberate, willful, wanton, malicious, and/or oppressive torture, killings, and assaults on the Muslim people of Western India, constituting Intentional Infliction of Emotional Distress, and should be punished by an award of punitive damages in addition to compensatory damages, in respective amounts to be determined by a jury at trial.

**NINTH CLAIM FOR RELIEF**  
**(Negligent Infliction of Emotional Distress)**

108. Plaintiffs re-allege and incorporate by reference all the allegations set forth in the preceding paragraphs of this Complaint as if fully set forth herein.
109. Defendant owed a duty to Plaintiffs and their decedents to prevent the deliberate, willful, wanton, malicious, intentional, and/or oppressive torture, killings, and assaults on the Muslim people of Western India. Further Defendant owed a duty to Plaintiffs and their decedents to refrain from intentional and wantonly harmful outrageous conduct.
110. Defendant breached that duty by authorizing, commanding, and directing the military and police forces under his command and direction to engage in the deliberate, willful, wanton, malicious, intentional, and/or oppressive torture, killings, and assaults on the Muslim people of Western India. Defendant violated this duty and created an

unreasonable and foreseeable risk of substantial bodily harm or death to the Plaintiffs and their decedents. The attacks placed the Plaintiffs and their decedents in grave danger and/or made them reasonably fear for their physical safety. During the attacks that Defendant planned, authorized, and directed, as well as condoned and acquiesced in, the surviving Plaintiffs all feared for their lives and experienced great trauma and shock.

111. Plaintiffs have suffered and will continue to suffer extreme mental anguish and emotional distress that was directly caused by the trauma, shock, and fear that they experienced during and directly after the attacks orchestrated by Defendant.

112. Moreover, Defendant's conduct caused many of the Plaintiffs to witness members of their immediate families suffer violent deaths or grave physical injury during the attacks. Defendant's conduct was a substantial factor in bringing about the injuries and deaths to which Plaintiffs bore witness.

113. Many Plaintiffs suffered and continue to suffer emotional torment caused by directly witnessing the violent death or serious physical injury of relatives during the attacks authorized, commanded, and directed as well as condoned and acquiesced in by Defendant.

114. When Defendant authorized, commanded, and directed as well as condoned and acquiesced in the attacks, he carelessly and negligently ignored the obvious risk of causing the Plaintiff's this trauma, shock, fear, and several emotional mental suffering. Defendant's disregard for the substantial risk of causing this trauma, suffering, and fear, was so extreme and degree as to go beyond all possible bounds of decency, and are utterly intolerable in a civilized society.

115. Defendant's acts were negligent infliction of emotional distress in the torture, killings, and assaults on the Muslim people of Western India, and should be punished by an award of punitive damages in addition to compensatory damages, in respective amounts to be determined by a jury at trial.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs pay for judgment against Defendant as follows:

- a. For compensatory damages in an amount to be proven at trial;
- b. For punitive and exemplary damages in an amount to be proven at trial;
- c. For reasonable attorneys' fees and costs of suit;
- d. For a declaratory judgment holding that Defendant's conduct amounted to "Genocide" and was in violation of the law of nations;
- e. For such, other, further, or different relief as this honorable Court may deem to be just, proper, fitting, and equitable.

A jury trial is demanded on all issues.

Dated: September 25, 2014

  
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